
Affective Critique: Fear, Hope, Abandonment and Pleasure in Dianne Otto's Living with International Law

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When I was first prompted to share my reflections on the magisterial figure of Di Otto in transnational feminist scholarship on international law, I replied suggesting that I would like to speak through an assortment of situated (e)motions about the possibility of appreciating Di Otto's relationship with international law as *affective critique*.

However, a cursory glance over the standard set of proposals of affect theorists suggests that all this is well-nigh impossible. Not only is affect often theorised—for instance, in Brian Massumi's work—as autonomous and *outside* social signification,¹ that primary field of critical theory; it is also posited as a critique of sorts of critical social studies, with its attention to the *residue* that constructivist models of social studies leave behind—'the residue or excess that is not socially produced, and that constitutes the very fabric of our being'.² The visual arts theorist Simon O'Sullivan therefore concludes: 'Affects are [...] the stuff that goes on beneath, beyond, even parallel to signification. [...] You cannot read affects, you can only experience them'.³ This assertion implies that affect as critical object stands in opposition to critique, or at least the critique produced by attention to social structures.

With its focus on qualitative experience, affect theory, not unlike anthropology, privileges situated, lived sensation, even when that experience is in the domain of the virtual, the domain that escapes the so-called 'real world' and because of that, in Massumi's words, 'cannot but be felt'.⁴ Bruno Latour explains this focus precisely as an antithesis to critical thinking. Because for him critique is 'the

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¹ Brian Massumi, 'The Autonomy of Affect' (1995) 31 *Cultural Critique* 83-109. See also Brian Massumi, *Parables for the Virtual: Movement, Affect, Sensation* (Durham: Duke University Press, 2002).

² Clare Hemmings, 'Invoking Affect: Cultural Theory and the Ontological Turn' (2005) 19(5) *Cultural Studies* 548-567, p. 549.

³ Simon O'Sullivan, 'The Aesthetics of Affect: Thinking Art beyond Representation' (2001) 6(3) *Angelaki* 125-135, p. 126.

⁴ Massumi, 'The Autonomy of Affect', p. 91.

destruction of sense *made*,⁵ the critical impulse should be resisted altogether.⁶ Finally, Gilles Deleuze construes affect as distinct from emotion, as ‘bodily meaning that pierces social interpretation, confounding its logic, and scrambling its expectations’.⁷ In other words, if these propositions are taken for granted, I cannot describe Di Otto’s relationship with international law as affective critique, because affect exists in the residue of discourse, in sensation, which lies outside the domain of critique. I should also be careful not to confuse affect with emotion, for those two are situated differently—emotion in the realm of social interpretation, affect in its bodily alterity that defies any socially imposed logic.

I confess, nonetheless, that I am a believer in affective critique. Clare Hemmings, for example, has helpfully rejected ‘the contemporary fascination with affect as outside social meaning, as providing a break in both the social and in critics’ engagements with the nature of the social’, and proposed, instead, that ‘affect might in fact be valuable precisely to the extent that it is not autonomous’.⁸ Moreover, my suggestion is that affect’s relationship with the social is mutually constitutive, even when affect unsettles the social, works against the social or provides an altogether asocial experience. This symbiosis is best seen at work when certain affects that are socially construed as ‘negative’ become a source of a *feeling* that is both felt as enjoyable and socially constructed as ‘positive’. Eve Kosofsky Sedgwick’s theorisation of shame that becomes pride is an example of such undeniably messy socio-synesthetic transformation.⁹ But it is precisely this messiness—or queerness, if you will—of affect when *in touch* with the social that makes affective critique possible and, with it, makes the distinctions between the ‘positive’ and the ‘negative’ or even between affect and emotion *intrinsically* unstable.

Not only do things and people become messy and off balance when we direct our critical attention to affect; a turn to affect also exposes the inescapably

⁵ Nathan Stormer, ‘Turning Sensation into Sense: What is Critique of Affect?’, paper presented at the National Communication Association Convention, 16 November 2010, San Francisco, USA (unpublished; on file with author), p. 2 (emphasis in original).

⁶ Bruno Latour, ‘Why Has Critique Run out of Steam? From Matters of Fact to Matters of Concern’ (2004) 30 *Critical Inquiry* 225–248. For a recent anthropological refutation of this proposal, see Didier Fassin, ‘The Endurance of Critique’ (2017) 17(1) *Anthropological Theory* 4–29.

⁷ Hemmings, ‘Invoking Affect’, p. 552. However, the relationship between affect and critique is described as ambiguous and complex in many of Deleuze’s works. He writes, for example, of ‘affects that are not simply effects of the body, but veritable *critical entities* that hover over the body and judge it’: Gilles Deleuze, ‘The Shame and the Glory: T.E. Lawrence’ in Gilles Deleuze, *Essays: Critical and Clinical* (trans. Daniel W. Smith and Michael A. Greco; Minneapolis: University of Minnesota Press, 1997 [1993]), 115–125, p. 124 (emphasis in original).

⁸ Hemmings, ‘Invoking Affect’, p. 565.

⁹ See, for example, Eve Kosofsky Sedgwick and Adam Frank, ‘Shame in the Cybernetic Fold: Reading Silvan Tomkins’ (1995) 21(2) *Critical Inquiry* 494–522. For other similar manifestations of such productive messiness, see Eve Kosofsky Sedgwick, *Touching Feeling: Affect, Pedagogy, Performativity* (Durham: Duke University Press, 2003).

complicated interrelatedness of seemingly autonomous formations. Or, as Silvan Tomkins once quipped:

if we want to understand feeling, we had better understand all the things that are conjoined and have evolved to be conjoined. We can tease them apart, we can factor them, we can centrifuge them, but they remain a unitary phenomenon, which exhibits many diverse characteristics at once. Now that is not fashionable in science. It is called contamination. Unfortunately, we are deeply contaminated creatures.¹⁰

The socio-affective contamination is not only a phenomenon deeply beneficial to critical examinations of the human; it should also be embraced as a mode of critique in its own right—a mode that critical theorists attuned to thinking through affects, or even *thinking affectively* (that not being an oxymoron), have done all along. And, it is this kind of critique that I find extremely exciting in the ‘work’, or rather lifeworlds, of Di Otto.

A critical object that Di has grappled with *a lot* throughout her life—an object, therefore that has entered her everyday experience in more ways than one—is that of international law. It elicited in her, no doubt, many a complex feeling and *provoked* into being, so to speak, many a critical text, lecture, thought. Is there a symbiosis to be observed between these supposedly separate provocations? Is there productive contamination?

I would like to offer my response in four motions, that are also emotions, that are also affects, that are also critical stances, situated in a series of Di’s texts. Those complex four occurrences can tentatively be called ‘fear’, ‘hope’, ‘abandonment’ and ‘pleasure’. I contend that each of these offers an insight into Di’s affectively invested critique, a window to what might be called Di’s methodology that is also, and inseparably so, a way of life with international law.

Let us first encounter fear. In ‘Power and Danger: Feminist Engagement with International Law through the UN Security Council’,¹¹ Di turns to Janet Halley’s contention that ‘feminists now “walk the halls of power”’¹² and provides an account of one such potential ‘hall’ *par excellence*—the UN Security Council. While reluctant to agree with Halley’s label for this type of feminist engagement, that of ‘Governance Feminism’, Di still recounts the many dangers of this *modus operandi*, including ‘the risk of legitimising an imperial and hegemonic institution like the Security Council’.¹³ She reminisces, for example, how she was at first ‘despairing about feminist engagement with power’¹⁴ only to find things to be *more complex* than that. Recalling Carole Vance’s warning that ‘sexual panics mobilise irrational

¹⁰ Silvan S. Tomkins, ‘Inverse Archaeology: Facial Affect and the Interfaces of Scripts within and between Persons’ in *Exploring Affect: The Selected Writings of Silvan S. Tomkins* (ed. E. Virginia Demos; Cambridge: Cambridge University Press, 2005), 284-290, p. 285.

¹¹ Dianne Otto, ‘Power and Danger: Feminist Engagement with International Law through the UN Security Council’ (2010) 32 *Australian Feminist Law Journal* 97-121.

¹² *Ibid.*, p. 98.

¹³ *Ibid.*, p. 99.

¹⁴ *Ibid.*

fears about sexuality and can catch feminists in a “conservative impulse” that drastically narrows the terms of feminist discourse’, Di finds a suitable example of such a situation in Security Council Resolution 1820, ‘with its panicked proposal to evacuate women and girls facing an imminent threat of sexual violence and its silences about sexual violence directed at men and boys’.¹⁵ However, Di’s analysis of some other related resolutions reveals that they ‘draw from a broader range of feminist ideas’.¹⁶ By delving into the fears, including her own, generated by an inherently dangerous feminist engagement, Di does not shy away from their complexity. It is, in fact, that complexity that can ultimately provide some solace, for it can help both understand and experience what she calls ‘working in the intersections of power and danger’.¹⁷

In the same text, Di expresses a hope in the activist-theorist nexus. This hope, very much a staple of Di’s critical life with international law, is first probed by the question: ‘Can an activist be engaged with critical thinking in both law and feminism without stifling her activism or betraying her critique?’¹⁸ While the answer can be positive, she later adds that it is *also* ‘a “somewhat pessimistic” position to take’.¹⁹ The complexity of such a hope, and perhaps *any* hope involving international law, is thus laid bare. In another intervention, titled ‘Celebrating Complexity’,²⁰ Di reveals that she, too, belongs to the tradition that Sundhya Pahuja ‘has aptly described as having “critical faith” in international law’s potential to challenge established relations of power’.²¹ To be sure, Di shares

feminist and queer dissatisfactions with the assumptions, conceptual underpinnings, and vocabularies of international law, which order the way we think about the international community, maintaining exclusionary normative conceptions of who is fully human, while masquerading as objective and universal.²²

But such discontents, Di explains, can also arise ‘from deep hopefulness that international law may yet be turned to emancipatory ends’.²³ This hope-*cum*-disappointment, Di readily admits, is complex, perhaps even ‘dangerous’, both as a feeling and a critical stance. But she is adamant that such complexities should be ‘embraced as productive’, rather than seen as a problem.²⁴

This is not to say, of course, that Di has been ready to retain for affective and critical consumption every by-product of her living with international law. In fact, her early work cultivates a keen sense of abandonment, perhaps best captured in her call to ‘Rethinking the “Universality” of Human Rights Law’, in which she

¹⁵ Ibid, p. 119.

¹⁶ Ibid.

¹⁷ Ibid, p. 118.

¹⁸ Ibid, p. 98.

¹⁹ Ibid, p. 120.

²⁰ Dianne Otto, ‘Celebrating Complexity’ (2012) 106 *Proceedings of the Annual Meeting (American Society of International Law)* 168-171.

²¹ Ibid, p. 168.

²² Ibid, p. 169.

²³ Ibid, pp. 168-169.

²⁴ Ibid, p. 171.

argues for 'the cooperative endeavor between modern and poststructural knowledges',²⁵ as well as in her article 'A Question of Law or Politics? Indigenous Claims to Sovereignty in Australia', in which she explores 'post-colonial and post-liberal local knowledges'.²⁶ Taken together, these texts deplore 'universalising knowledge' that law so often harbours.

Apart from a deep theoretical structure, which sets Di's work apart from the sea of other contemporaneous legal scholarship, there is, I think, a visceral element to this call for abandonment, a sense of *non-belonging* and uneasiness that Di mines with great skill so that it becomes her critical *tour de force*. Take, for example, her recollection of her sitting in the African Caucus of NGOs at the Fourth World Conference on Women in Beijing, in September 1995, which can be read in her text 'The Gastronomics of TWAIL's Feminist Flavours: Some Lunch-Time Offerings'.²⁷ She was there 'as a representative of the Lesbian Caucus, to ask African women to lobby their State's representatives to support the recognition of "sexual orientation" as an unacceptable ground of discrimination in the [Beijing] Platform for Action'.²⁸ This is how she remembers the encounter:

The limits of our shared identification as women—and as feminists—felt overwhelming. [...] I felt bereft of words that could make [...] links and without a framework, in law or politics, that was capable of giving life to these interconnections in that room. [...] Before I even opened my mouth to speak, we were divided and ranked by a myriad of dualized identity significations springing from the ontologies of the post-colonial African Woman and the White Lesbian Woman of modernity [...]. My efforts were met with, what felt to me like, stony silence. On one hand, I felt they were right to distrust me, in light of the many ways that white western feminism has been complicit in colonialism, and continues at times to be aligned with neo-colonialism. But I also felt I had failed because I had not found the words to convey the pain and inhumanity of women's lack of sexual autonomy, and of homophobia, no less in African countries than elsewhere.²⁹

This is Di confronting abandonment head- and heart-on. Di at her most vulnerable, at her most revealing. Di at her strongest, too, living her politics, letting people and things be hurtful, letting her deep sense of abandonment hurt once more. Then, coming back to it. *Being it* again and again. Letting it flood the mind, too. Letting it yield critique. Letting, in other words, her critique become deeply affectively invested.

²⁵ Dianne Otto, 'Rethinking the "Universality" of Human Rights Law' (1997) 29(1) *Columbia Human Rights Law Review* 1-46, p. 45.

²⁶ Dianne Otto, 'A Question of Law or Politics? Indigenous Claims to Sovereignty in Australia' (1995) 21(65) *Syracuse Journal of International Law and Commerce* 65-103, p. 103.

²⁷ Dianne Otto, 'The Gastronomics of TWAIL's Feminist Flavours: Some Lunch-Time Offerings' (2007) 9 *International Community Law Review* 345-352.

²⁸ *Ibid*, p. 346.

²⁹ *Ibid*, pp. 346-347.

I conclude, however, with a few words on pleasure, for it permeates Di's life with international law, too. Recall, for instance, her thoughts on statehood from a queer perspective, in the short text titled "'Taking a Break" from "Normal": Thinking Queer in the Context of International Law'.³⁰ Observing that many criteria of statehood in international law, such as the requirement of a 'permanent population', seem so obviously organised 'along the grid-lines of heterosexual kinship relations',³¹ Di wonders what could be done to unsettle them. And, then, she suddenly comes to this realisation:

Curiously, the debate about whether the Vatican can be properly called a 'state' illustrates this nicely. One point that is made by those who want to deny its statehood is that its population lacks 'permanency' because, as it is made up of celibate priests and nuns, it is not self-sustaining. So the Vatican may provide a starting point for thinking through how a 'queer' state might 'look'—a thought that gives *me* pleasure.³²

There, I think, lies the beauty of Di's affective critique. It jolts us out of our accustomed ways of thinking and being in the world. It unsettles us with excitement. And, let's not forget Silvan Tomkins' apt remark: 'I am, above all, what excites me'.³³

³⁰ Dianne Otto, "'Taking a Break" from "Normal": Thinking Queer in the Context of International Law' (2007) 101 *Proceedings of the Annual Meeting (American Society of International Law)* 119-122.

³¹ *Ibid*, p. 120.

³² *Ibid* (emphasis in original).

³³ Silvan S. Tomkins, *Affect, Imagery, Consciousness: Volume I, The Positive Affects* (London: Tavistock, 1962), p. 347.
